

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

KHUYEN-TRINH THI VU and )  
NICK NGUYEN )

Plaintiffs, )

v. )

Civil Action File No. \_\_\_\_\_

(Removed from the Superior Court of  
Gwinnett County, Georgia)

MILBANK INSURANCE )  
COMPANY, a foreign corporation )

Defendant. )

**NOTICE OF REMOVAL OF DEFENDANT MILBANK INSURANCE  
COMPANY**

Milbank Insurance Company (“Milbank”), defendant in the above-styled matter, within the time prescribed by law and pursuant to 28 U.S.C. § 1441, files this notice of removal, respectfully showing the Court as follows:

**I. COMMENCEMENT AND SERVICE**

1.

Plaintiffs Khuyen-Trinh Thi Vu and Nick Nguyen (“plaintiffs”) commenced this action on August 7, 2023 by filing a complaint against Milbank in the Superior Court of Gwinnett County, Georgia, which county is within the United States

District Court for the Northern District of Georgia and the Atlanta Division of this Court. (Exhibit 1: Complaint – Civil Action File No. 23-A-06726-7). The lawsuit was styled as above and was numbered as civil action file no. 23-A-06726-7.

2.

Milbank was served with a copy of the summons and complaint on August 10, 2023 by delivery to its registered agent, Corporation Service Company, 2 Sun Court, Suite 400, Peachtree Corners, GA 30092 .

## **II. GROUND FOR REMOVAL**

3.

Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332 because this action is between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. 28 U.S.C. § 1332(a).

## **III. COMPLETE DIVERSITY**

4.

Plaintiff Khuyen-Trinh Thi Vu is a citizen and resident of Gwinnett County, Georgia. (Ex. 1: Complaint, ¶ 1).

5.

Plaintiff Nick Nguyen is a citizen and resident of Gwinnett County, Georgia.  
(Ex. 1: Complaint, ¶ 1).

6.

Milbank is a corporation organized and existing under the laws of the State of Iowa, with its principal place of business located at 4601 Westown Parkway, Suite 300, West Des Moines, IA 50266. At no time has Milbank been organized and existing under the laws of the State of Georgia, nor at any time has its principal place of business been located in the State of Georgia.

7.

Accordingly, there is complete diversity of citizenship between plaintiffs and Milbank in this action.

#### **IV. AMOUNT IN CONTROVERSY**

8.

The amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. 28 U.S.C. § 1332(a).

9.

In their complaint, plaintiffs have alleged breach of contract against Milbank, and request compensatory damages, attorneys' fees, and pre-and post-judgment

interest. (Ex. 1: Complaint, ¶ 21-28).

10.

Specifically, plaintiffs allege that Milbank breached its contract of insurance with plaintiffs by failing to pay the claim. *Id.*

11.

Plaintiffs allege that they “have suffered a loss under the Policy in an amount to be determined at trial.” (Ex. 1: Complaint, ¶ 20). During Milbank’s investigation of the claim, plaintiffs submitted a signed, sworn statement in proof of loss, claiming the total loss and damage is \$154,866.00. (Ex. 1: Complaint, ¶ 16, Ex. B).

12.

Accordingly, the damages claimed by plaintiffs in the lawsuit exceed the sum or value of \$75,000.00, exclusive of interest and costs. Therefore, the amount in controversy satisfies the jurisdictional prerequisite of 28 U.S.C. § 1332(a).

## **V. TIMELY REMOVAL**

13.

In addition to satisfying the amount in controversy and diversity of citizenship requirements, Milbank has complied with the procedures necessary for removal contained in 28 U.S.C. § 1446.

14.

Milbank has properly filed this notice of removal of the case to the United States District Court for the Northern District of Georgia, Atlanta Division, within thirty (30) days of receipt of plaintiffs' complaint by Milbank. As such, Milbank timely filed this notice of removal. 28 U.S.C. § 1446(b)(1).

## **VI. CONCLUSION**

15.

Because the amount in controversy in this lawsuit exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and there is complete diversity of citizenship between plaintiffs and Milbank, this case is subject to the original jurisdiction of this Court under 28 U.S.C. § 1332 and may be removed to this Court pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446.

16.

Attached to this notice of removal as Exhibit "2" are true and correct copies of all process, pleadings, and orders filed in the state court in this case, as required by 28 U.S.C. § 1446(a).

17.

Milbank has given written notice of the filing of this notice of removal to plaintiffs by mailing a copy of this notice to their attorneys of record – J. Remington

Huggins, Esq. and Michael D. Turner, Esq., The Huggins Law Firm, 110 Norcross Street, Roswell, GA 30075.

18.

In accordance with 28 U.S.C. § 1446(a), Milbank will provide written notice of the filing of this notice of removal to Tiana P. Garner, Clerk of Court, Superior Court of Gwinnett County, P.O. Box 880, Lawrenceville, GA 30046, and serve copies upon all other parties.

WHEREFORE, defendant Milbank Insurance Company respectfully prays that the above-captioned lawsuit be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

Respectfully submitted this 7<sup>th</sup> day of September, 2023.

/s/ Wayne D. Taylor

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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing **NOTICE OF REMOVAL OF DEFENDANT MILBANK INSURANCE COMPANY** using the Court's CM/ECF System and served a true and correct copy of same via U.S. Mail, postage prepaid, and electronic mail to the following counsel of record:

J. Remington Huggins  
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*Attorneys for Plaintiffs*



I further certify that, pursuant to Rule 5.1(C) of the Local Rules of the United States District Court for the Northern District of Georgia, I prepared this document in 14 point Times New Roman font and complied with the margin and type requirements of this Court.

This 7<sup>th</sup> day of September, 2023.

/s/ Wayne D. Taylor

WAYNE D. TAYLOR

Georgia Bar No. 701275